

REMARKS

It is respectfully requested that this application be reconsidered in view of the above amendments and the following remarks and that all of the claims remaining in this application be allowed.

Amendments

Claims 1-12 were canceled without prejudice or disclaimer and replaced by new Claims 13-21. These claims are presented solely for the purpose of expediting what Applicants believe to be allowable subject matter; there being no acquiescence to any of the rejections made herein. Applicants reserve the right to file a continuation application directed to the subject matter of the prior presented claims.

Claim 13 corresponds substantially to previously presented Claim 1 with the following exceptions:

in certain parts, the claim has been made more readable (e.g., the structure is referred to formula I, the language regarding R^1 - R^5 has been simplified, the term “integer” has been deleted, the term “just” was deleted as it relates to R^9 , and the formula (-CO₂H) has been deleted after the term “carboxylic acid group”);

the B ring is specifically delineated as the elected pyridyl species; proper Markush language is employed with regard to L^2 and L^3 ; R is defined by the substituent “carboxyl” as kindly suggested by the Examiner; and the prior recitation of a “salt, solvate, …” has been replaced with the phrase “or a pharmaceutically acceptable salt thereof”. See, for example, paragraph [0057] at page 21.

Claim 14 corresponds substantially to previously presented Claim 2 with the exceptions noted above for Claim 13. In addition, Claim 14 has been placed into independent form.

Claim 15 corresponds to previously presented Claim 3.

Claim 16 corresponds substantially to previously presented Claim 4 with the exceptions noted above for Claim 13. In addition, a comma was added after "hydrogen" in the R⁷ and R⁸ definitions and an extraneous "and" deleted after the definition of R¹⁶ and R¹⁷.

Claims 17-20 and 22 correspond to previously presented Claims 5-6 and 9-12 respectively.

In Claim 21, the term "carboxylic acid" was replaced by the term "carboxylic acid group" as suggested by the Examiner and the formula (-CO₂H) delete as well as the word "integer".

No new matter has been added. Entry of these amendments is earnestly solicited.

The above amendments were entered solely to expedite allowance of subject matter in this application and Applicants specifically reserve the right to file one or more continuation applications directed to the canceled subject matter.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

In view of the above, Claims 13-22 are now pending in this application.

Restriction Requirement

Due to the restriction requirement previously presented, the claims in this application have been amended to recite that the B ring is pyridyl which conforms to the elected group. Applicants reserve the right to file one or more divisional applications directed to the non-elected inventions.

Rejections Under 35 U.S.C. §112, second paragraph

Claims 1-6 and 9-12 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite for the following reasons:

A. recitation that R is a “carboxylic acid” in claims 1 and 4, is wrong and should be replaced by “carboxylic acid group”;

B. In claims 1 and 4, recitation of “and a salt...” renders these claims indefinite. As suggested in the Office Action, this language was changed to read in the alternative “or a pharmaceutically acceptable salt thereof.

Applicants submit that newly presented claims 13-22 obviate these rejections.

Withdrawal of these rejections is earnestly solicited.

Rejection Under 35 U.S.C. §112, first paragraph

Claims 1-3, 5-6 and 9-12 stand rejected under 35 U.S.C. §112, first paragraph, because the specification while enabling for making salts of the claimed compounds does not reasonably provide enablement for making the hydrate or solvate of the claimed compounds. Applicants submit that this rejection has been obviated by new claims 13-22.

Withdrawal of this rejection is earnestly solicited.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date 4/4/05

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